

FIRST REGULAR SESSION

SENATE BILL NO. 2

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GIBBONS.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0509S.011

AN ACT

To amend chapter 570, RSMo, by adding thereto one new section relating to obtaining, receiving and selling personal health information, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 570, RSMo, is amended by adding thereto one new section, to be known as section 570.350, to read as follows:

570.350. 1. A person commits the crime of knowingly obtaining, receiving, or selling personal health information without consent if such person:

(1) Procures, attempts to procure, solicits, or conspires with another to procure the personal health information of any resident of this state knowing that such information has been obtained without the consent of the person to whom the personal health information pertains; or

(2) By fraudulent, deceptive, or false means:

(a) Sells, or attempts to sell, personal health information of any resident of this state without the consent of the person to whom the information pertains; or

(b) Receives personal health information of any resident of this state knowing that such information has been obtained without the consent of the person to whom the information pertains or by fraudulent, deceptive, or false means.

2. The crime of knowingly obtaining, receiving, or selling personal health information without consent is a class D felony if such crime is committed against at least one but not more than five persons. Such crime shall be a class C felony if committed against more

21 than five persons.

22 3. No provision of this section shall be construed so as to prevent
23 any action by a law enforcement or any governmental agency, or any
24 officer, employee, or agent of such agency, including the Missouri
25 attorney general or any of his or her agents and any county or
26 municipal prosecutor and his or her agents, to obtain, use, or disclose
27 personal health information in connection with the performance of the
28 official duties of the agency, as allowed by state or federal privacy
29 laws.

30 4. No provision of this section shall be construed to prohibit a
31 health care provider from obtaining, using, disclosing, or permitting
32 access to any personal health information, either directly or indirectly
33 through its agents:

34 (1) As otherwise authorized or required by state or federal law;
35 or

36 (2) As directed by said person or his or her legal representative.

37 5. No provision of this section shall be construed to prevent an
38 insurance company or insurance producer, as defined in section
39 375.012, RSMo, a workers' compensation carrier, a third-party
40 administrator, or an employer administering or investigating a
41 workers' compensation injury from obtaining, using, disclosing, or
42 permitting access to any personal health information or personal health
43 information record, either directly or indirectly through its agents, as
44 permitted by state laws and regulations governing the conduct of
45 insurance companies or insurance producers with respect to personal
46 information, including personal health information.

47 6. No provision of this section shall be construed so as to limit
48 conducting any medical research as defined in 45 CFR Part 46.

49 7. No provision of this section shall be construed to prohibit
50 reporting personal health information where authorized or required by
51 law.

52 8. As used in this section, the following terms shall mean:

53 (1) "Personal health information", any identifiable information,
54 in electronic or physical form, regarding the individual's health,
55 medical history, medical treatment, or diagnosis by a health care
56 provider that is:

57 (a) Created or stored by the healthcare provider or health

58 carrier in the normal course of its business operations; and

59 (b) Not otherwise available publicly or in the public domain;

60 (2) "Health care provider", any physician, hospital, health
61 maintenance organization, ambulatory surgical center, long-term care
62 facility, including those licensed under chapter 198, RSMo, dentist,
63 registered or licensed practical nurse, optometrist, podiatrist,
64 pharmacist, chiropractor, professional physical therapist, psychologist,
65 physician in training, or any other person or entity that provides
66 health care services under the authority of a license or certificate.

Section B. Section A of this act shall become effective on January 1, 2008.

Unofficial

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Bill

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